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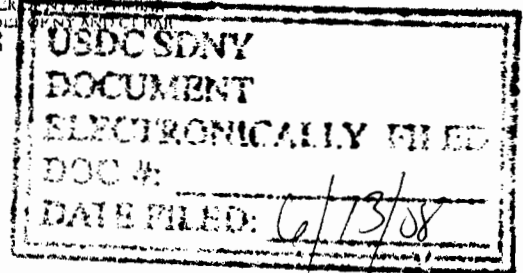
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MEMORANDUM ENDORSED June 6, 2008



VIA FACSIMILE 212-805-0426

Honorable Laura Taylor Swain

United States District Judge

Southern District of New York

500 Pearl Street, Room 755

New York, New York 10007

RE: Gandarilla v. the City of New York, et al
Docket No.: 07 CV 6909

Your Honor:

The undersigned appeared in this case as lead counsel for Plaintiff on April 1, 2008. It is respectfully requested that all non-expert witness discovery be extended from July 15, 2008 to September 15, 2008 and that all other dates be adjusted as indicated on the Proposed Pre Trial Scheduling Order attached or in the alternative as the Court deems appropriate.

There have been no prior requests to extend the Pre Trial Scheduling Order. This request is made on consent of all parties.

Prior to my appearance the case was scheduled for a settlement conference with Judge Gorenstein. Due to scheduling conflicts, the conference was rescheduled for May 16, 2008. Position statements were prepared and exchanged. Contrary to the parties' request in the Preliminary Pre Trial Statements submitted on February 8, 2008 to this Court, Assistant Corporation Counsel for the City indicated a "no pay" position in her settlement position statement. Additionally, while co-defendant Captain Alberto Sanchez' counsel indicated a willingness to attend the settlement conference his position statement clearly belied any willingness to offer substantial monies for settlement. Finally, Plaintiff's counsel alerted the Court to the existence of Orders of Protection against Defendant Sanchez in favor of Plaintiff and ultimately, the conference was cancelled. The case cannot settle at this juncture.

Due in part to the parties participation in a pending criminal case scheduled for trial in Criminal Court, Bronx County on June 16, 2008 which forms part of the basis for some of the claims herein, the parties have been unable to complete non-expert witness discovery. Plaintiff is the victim in the aforementioned criminal trial and Defendant Sanchez is the criminal Defendant.

Furthermore, Plaintiff's attempts to obtain evidentiary materials from the first successful criminal trial against Defendant Sanchez in New York Criminal Court have been hampered. The ADA in Bronx County does not want the Plaintiff to possess transcripts from the trial or any of the other evidence until after the prosecution of his case on June 16, 2008.

Plaintiff anticipates that review of testimony of these two trials will greatly reduce the number of depositions required in the instant litigation. However, there is still much to do in the way of non-expert witness depositions. To date, Plaintiff has noticed 7 depositions for Defendant City witnesses. At this writing, many documents have been exchanged. On April 29, 2008 the City provided approximately 800 bates stamped documents. Plaintiff is in the process of completing responses to Defendant Sanchez' demands. Finally, Plaintiff is preparing Discovery Demands and Interrogatories to be served on both defendants in the immediate future.

Finally, the undersigned will be on vacation and out of the country from June 29, 2008 through July 13, 2008.

It is anticipated that the extension will provide counsel the time to complete the anticipated discovery in this matter.

Thank you for your anticipated courtesy herein.

Respectfully yours,

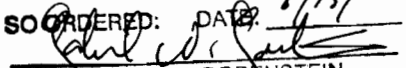


Linda M. Cronin

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Cc: Phyllis Calistro, Esq. (via facsimile)
James Martin Caffrey, Esq. (via facsimile)
Steven Thomas Sledzik, Esq. (via facsimile)

The deadline in paragraphs 2-3 of the February 15, 2008 order are each extended by 60 days. The conference before Judge Swain described in paragraph 9 is adjourned to Sept. 11, 2009 at 10:00 am.

SO ORDERED: DATE: 6/13/2008

GABRIEL W. GORNSTEIN
UNITED STATES MAGISTRATE JUDGE

(In the future please make pretrial applications to me.)